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8 **BEFORE THE**  
9 **STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2014-26

13 **FACTOR X TERMINATORS, INC., DAVID**  
14 **RECINOS, PRESIDENT/QUALIFYING**  
15 **MANAGER,**  
16 **19930 Lassen St,**  
17 **Chatsworth, CA 91311**

**ACCUSATION**

18 -and-

19 **145 S. Glenoaks Blvd, Ste. 442**  
20 **Burbank, Ca. 91502**

21 **Company Registration Certificate No. PR**  
22 **5228, Branch 2 and 3**

23 -and-

24 **DAVID RECINOS,**  
25 **19930 Lassen St,**  
26 **Chatsworth, CA 91311**  
27 **Operator License No. OPR 10926, Branch 2**  
28 **and 3**

Respondent

Complainant alleges:

**FILED**

Date 10/15/13 By *[Signature]*

1. **PARTIES**

2. 1. Susan Saylor ("Complainant") brings this Accusation solely in her official capacity as  
3 the Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of  
4 Consumer Affairs.

5 **Factor X Terminators Inc.**

6 2. On or about January 31, 2007, the Board issued Company Registration Certificate  
7 Number PR 5228 in Branch 2 (general pest) and Branch 3 (termite) to Factor X Terminators, Inc.  
8 with David Recinos, ("Respondent or Recinos") as president and qualifying manager. In and  
9 between April 23, 2012 and May 1, 2012, and in and between September 21, 2012, and October  
10 19, 2012, Company Registration Certificate No. PR 5228 issued to Respondent was suspended  
11 due to Respondent's failure to maintain general liability insurance as required by Business and  
12 Professions Code section 8692.

13 **David Recinos**

14 3. On or about June 22, 2004, the Board issued Operator License Number OPR 10926 in  
15 Branch 3 (termite) to David Recinos. On or about February 2, 2006, the Board upgraded  
16 Operator License No. OPR 10926 to include Branch 2 (general pest) to David Recinos.  
17 Respondent's Operator license will expire on June 30, 2015, unless renewed.

18 **JURISDICTION**

19 4. This Accusation is brought before the Structural Pest Control Board ("Board"),  
20 Department of Consumer Affairs, under the authority of the following laws. All statutory section  
21 references are to the Business and Professions Code unless otherwise indicated. All regulatory  
22 section references are to Title 16 of the California Code of Regulations unless otherwise  
23 indicated.

24 5. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a  
25 license when it finds that the holder, while a licensee or applicant, has committed any acts or  
26 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil  
27 penalty.

28 6. Code section 8625 states:

1       “The lapsing or suspension of a license or company registration by operation of law or by  
2 order or decision of the board or a court of law, or the voluntary surrender of a license or  
3 company registration shall not deprive the board of jurisdiction to proceed with any investigation  
4 of or action or disciplinary proceeding against such licensee or company, or to render a decision  
5 suspending or revoking such license or registration.”

6       7.     Code section 8624 states, in pertinent part:

7       ....

8       “If the operator is the qualifying manager, a partner, responsible officer, or owner of a  
9 registered structural pest control company, the suspension or revocation may be applied to the  
10 company registration.

11       The performance by any partnership, corporation, firm, association, or registered company  
12 of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for  
13 disciplinary action against any licensee who, at the time the act or omission occurred, was the  
14 qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm,  
15 association, or registered company whether or not he or she had knowledge of, or participated in,  
16 the prohibited act or omission.”

17       8.     Code section 8654 states, in pertinent part:

18       “Any individual who has . . . had his or her license revoked, or whose license is under  
19 suspension, or who has failed to renew his or her license while it was under suspension, or who  
20 has been a member, officer, director, associate, qualifying manager, or responsible managing  
21 employee of any partnership, corporation, firm, or association . . . whose company registration  
22 has been revoked as a result of disciplinary action, or whose company registration is under  
23 suspension, and while acting as such member, officer, director, associate, qualifying manager, or  
24 responsible managing employee had knowledge of or participated in any of the prohibited acts for  
25 which the license or registration was denied, suspended or revoked, shall be prohibited from  
26 serving as an officer, director, associate, partner, qualifying manager, or responsible managing  
27 employee of a registered company, and the employment, election or association of such person by  
28 a registered company is a ground for disciplinary action.”

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1 disciplinary action and shall subject the registered company to a fine of not more than two  
2 thousand five hundred dollars (\$2,500).

3 "A written inspection report conforming to this section and on a form approved by the  
4 board shall be prepared and delivered to the person requesting the inspection or to the person's  
5 designated agent within 10 business days of the inspection, except that an inspection report  
6 prepared for use by an attorney for litigation purposes is not required to be reported to the board.  
7 The report shall be delivered before work is commenced on any property. The registered  
8 company shall retain for three years all original inspection reports, field notes, and activity forms.

9 Reports shall be made available for inspection and reproduction to the executive officer of  
10 the board or his or her duly authorized representative during business hours. Original inspection  
11 reports or copies thereof shall be submitted to the board upon request within two business days.

12 The following shall be set forth in the report:

13 . . . .

14 (6) A foundation diagram or sketch of the structure or structures or portions of the  
15 structure or structures inspected, indicating thereon the approximate location of any infested or  
16 infected areas evident, and the parts of the structure where conditions that would ordinarily  
17 subject those parts to attack by wood destroying pests or organisms exist.

18 (7) Information regarding the substructure, foundation walls and footings, porches, patios  
19 and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias,  
20 exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack  
21 by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation  
22 or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels,  
23 excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be  
24 reported.

25 . . . .

26 (9) Indication or description of any areas that are inaccessible or not inspected with  
27 recommendation for further inspection if practicable. If, after the report has been made in  
28

1 compliance with this section, authority is given later to open inaccessible areas, a supplemental  
2 report on conditions in these areas shall be made.

3 (10) Recommendations for corrective measures.

4 . . . .

5 11. Code section 8518 states, in pertinent part:

6 When a registered company completes work under a contract, it shall  
7 prepare, on a form prescribed by the board, a notice of work completed and not  
8 completed, and shall furnish that notice to the owner of the property or the owner's  
9 agent within 10 working days after completing the work. The notice shall include a  
statement of the cost of the completed work and estimated cost of work not  
completed.

10 . . . .

11 Notices of work completed and not completed shall be made available for  
12 inspection and reproduction to the executive officer of the board or his or her duly  
13 authorized representative during business hours. Original notices of work  
completed or not completed or copies thereof shall be submitted to the board upon  
request within two business days.

14 12. Code section 8613 states, in pertinent part:

15 A registered company which changes the location of its principal office or any branch  
16 office or which changes its qualifying manager, branch supervisor, officers, or its bond or  
17 insurance shall notify the registrar in writing of such change within 30 days thereafter.

18 13. Code section 8641 states:

19 "Failure to comply with the provisions of this chapter, or any rule or regulation adopted by  
20 the board, or the furnishing of a report of inspection without the making of a bona fide inspection  
21 of the premises for wood destroying pests or organisms, or furnishing a notice of work completed  
22 prior to the completion of the work specified in the contract, is a ground for disciplinary action."

23 14. Code section 8642 states that "[t]he commission of any grossly negligent or  
24 fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a  
25 registered company is a ground for disciplinary action."

26 15. Code section 8652 states:

27 Failure of a registered company to make and keep all inspection reports, field notes,  
28 contracts, documents, notices of work completed, and records, other than financial records, for a

1 period of not less than three years after completion of any work or operation for the control of  
2 structural pests or organisms, is a ground for disciplinary action. These records shall be made  
3 available to the executive officer of the board or his or her duly authorized representative during  
4 business hours.

5 16. Code section 8691 states:

6 "No registered company shall engage in any of the practices for which is  
7 required to be registered by this chapter, unless it maintains such insurance policy or  
8 bond as specified in this article."

9 17. Code section 8692 states, in pertinent part:

10 An "insurance policy" as used in this article means a contract of liability insurance issued  
11 by an insurance company authorized to transact business in this state . . . The insurance policy  
12 shall provide minimum limits of twenty-five thousand dollars (\$25,000) for any one loss due to  
13 bodily injury, sickness or disease, . . . and twenty-five thousand dollars (\$25,000) minimum for  
14 one loss due to injury or destruction of property, including the loss of use thereof.

15 18. Section 8695 of the Code states, in pertinent part:

16 "The violation of any provision of this article . . . shall be grounds for the suspension or  
17 revocation by the board of the operator's license of the owner or qualifying manager or  
18 managers of the registered company and of the company registration."

### 19 REGULATORY PROVISIONS

20 19. California Code of Regulations, title 16, section 1911 states:

21 "Each operator, field representative and applicator shall file his or her address of record  
22 with the board and shall notify the board of any change in address within ten (10) days of such  
23 change. The address of record of a field representative, an operator or an applicator shall be the  
24 address of the registered company by which he or she is employed or with which he or she is  
25 associated or his or her residence address if he or she is not employed and associated. "Each  
26 licensee shall also file his or her address for mailing purposes with the board and shall notify the  
27 board of any change in address within ten (10) days of such change."

28 20. California Code of Regulations, title 16, section 1996.3 states, in pertinent part:

1       “(a) The address of each property inspected and/or upon which work was completed shall  
2 be reported on a form prescribed by the Board and designated as the WDO Inspection and  
3 Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section.  
4 This form shall be prepared by each registered company and shall comply with all of the  
5 requirements pursuant to Section 8516(b), and 8518.

6       ....

7       “(c) Failure of a registered company to report and file with the Board the address of any  
8 property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are  
9 grounds for disciplinary action and subject to a fine of not more than two thousand five hundred  
10 dollars (\$2,500).”

#### 11                               **COST RECOVERY**

12       21. Section 125.3 of the Code states, in pertinent part, that a Board may request the  
13 administrative law judge to direct a licensee found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

#### 16                               **DECEMBER 4, 2012 MEETING WITH RESPONDENT**

17       22. According to the Board’s database, Respondent failed to file any Wood Destroying  
18 Pests or Organism (“WDO”) activity reports since April 12, 2012. On or about September 11,  
19 2012, Board inspector Donald Graves (“Graves”) was instructed to perform an office records  
20 check to confirm or deny if Respondent had completed and failed to file with the Board any  
21 WDO activity reports since April 12, 2012. After multiple attempts to contact Recinos, Graves  
22 finally arranged an appointment to meet Recinos on December 4, 2012 at Recino’s storage site.  
23 However, thirty minutes prior to meeting Graves, Recinos called Graves and told him that he  
24 could not get the keys to his storage unit. Graves and Recinos subsequently met at a Starbucks  
25 location. During the meeting, Recinos signed a declaration under penalty of perjury which he  
26 gave to Graves indicating that “he (Recinos) had not done any work since the last WDO filing  
27 (with the Board) in April 2012.”  
28



1       23. While investigating an unrelated case on or about December 5, 2012, Graves traveled  
2 to Country Wide Fumigation, Inc. ("Country Wide") and noticed that the fumigation jobs posted  
3 on the wall had Respondent's company (Factor X Terminators) scheduled to complete the  
4 fumigations. Graves determined that four (4) properties were fumigated by Country Wide for  
5 Factor X Terminators as a sub-contractor during the time that Recinos claimed he was not  
6 working, including jobs completed on November 10, 2012, November 15, 2012, November 28,  
7 2012, and November 30, 2012.

8       24. On or about December 7, 2012, Recinos filed multiple WDO activity reports with the  
9 Board indicating that he engaged in the business of structural pest control on twelve (12)  
10 occasions between October 8, 2012, and December 5, 2012. The structural pest control work  
11 completed by Respondent on October 8, 2012 at 15912 Valley Vista Blvd., Encino, Ca. 91436  
12 was completed at a time when Company Registration Certificate No. PR 5228 issued to  
13 Respondent was suspended due to failure to maintain general liability insurance.

14       25. On or about December 31, 2012, Graves received information from Steven Loo with  
15 the Los Angeles County Agricultural Commissioner that despite the fact that Respondent was  
16 engaged in the business of structural pest control during the calendar year 2012, Respondent had  
17 failed to submit monthly use reports to the Los Angeles County Agricultural Commissioner  
18 showing all pesticides that he used in that county.

19       26. Also, during the course of the investigation, it was determined by Graves that despite  
20 Recinos executing a declaration indicating that he was not engaged in the business of structural  
21 pest control during the calendar year 2012, Recinos conducts structural pest control activities  
22 from his residence located at 19930 Lassen Street, Chatsworth, Ca. Recinos failed to register his  
23 residence address as his address of record with the Board within thirty days as required.

24                   **FIRST CAUSE FOR DISCIPLINE**

25                   **(Failure to Make Records Available for Inspection)**

26       27. Respondent's company registration and operator license are subject to disciplinary  
27 action pursuant to Section 8652 of the Business and Professions Code in that despite repeated  
28 requests from the Board, Respondent failed to make inspection records available to Board

1 representatives during business hours. Paragraphs 22-26 are hereby incorporated by reference as  
2 though alleged herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to File WDO Activity Reports Within Ten Days)**

5 28. Respondent's company registration and operator license are subject to disciplinary  
6 action pursuant to Sections 8516 and 8518 of the Business and Professions Code and Title 16,  
7 California Code of Regulations, section 1996.3 in that Respondent failed to file the addresses of  
8 properties inspected with the Board no later than 10 business days after the commencement of an  
9 inspection or upon completed work, as follows:

10 a. Respondent engaged in the practice of structural pest control on the following dates:  
11 October 8, 2012, October 25, 2012 (3 separate properties inspected), October 26, 2012, October  
12 29, 2012, November 13, 2012, November 16, 2012, November 19, 2012, November 28, 2012,  
13 and November 29, 2012. However, Respondent did not file WDO Activity Reports with the  
14 Board for jobs inspected and/or completed on the above listed properties until December 7, 2012  
15 which is more than 10 business days after the commencement of the inspection and/or completion  
16 of the work. Paragraphs 22-26 are hereby incorporated by reference as though alleged herein.

17 b. In addition, Respondent engaged in the practice of structural pest control and failed to  
18 submit any WDO Activity Reports on the following properties:

- 19 1. 8568 Farralone Avenue, West Hills, Ca. 91304
- 20 2. 393 Dalkeith Avenue, Los Angeles, Ca. 90049
- 21 3. 6855 Portshead Road, Malibu, Ca. 90265
- 22 4. 15230 Rayneta Drive, Sherman Oaks, Ca. 91403
- 23 5. 5151 Bellaire Avenue, Valley Village, Ca. 91607
- 24 6. 10759 Lindbrook, Los Angeles, Ca. 90024 (Respondent failed to submit to the  
25 Board a notice of completion on this property)
- 26 7. 1874 Benecia Avenue, Los Angeles, Ca. 90024
- 27 8. 20521 Rocha Chica Drive, Malibu, Ca. 90265
- 28 9. 4950 Ethel Avenue, Sherman Oaks, Ca. 91423

- 1 10. 310 Beloit Avenue, Los Angeles, Ca. 90049  
2 11. 12830 Tiara Street, Hollywood, Ca. 91607  
3 12. 12233 Octagon, Brentwood, Ca. 90049  
4 13. 5015 Sunnyslope Avenue, Sherman Oaks, Ca. 91423  
5 14. 4512 Ben Avenue, North Hollywood, Ca. 91607  
6 15. 10580 Wellworth Avenue, Westwood, Ca. 90024

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Failure to Notify of Address Change)**

9 29. Respondent Recino's operator license is subject to disciplinary action under Code  
10 sections 8620 and 8641, in that Respondent failed to notify the Board of his change of address  
11 within 10 days of the change, in violation of section 1911 of title 16 of the California Code of  
12 Regulations. The circumstances are as follows:

13 a. During the course of the investigation of Respondent, it was determined by the Board  
14 that despite Recinos executing a declaration indicating that he was not engaged in the business of  
15 structural pest control during the calendar year 2012, Recinos had in fact conducted structural  
16 pest control activities from his residence located at 19930 Lassen Street, Chatsworth, Ca. Recinos  
17 failed to register his residence address as his address of record with the Board within thirty days  
18 as required. Paragraphs 22-26 are hereby incorporated by reference as though alleged herein.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Misrepresentation of Material Fact)**

21 30. Respondent's company registration and operator's license are subject to disciplinary  
22 action pursuant to Code sections 8641 and 8637 in that Recinos made a misrepresentation of a  
23 material fact to the Board or its designee in that on or about December 4, 2012, Recinos signed a  
24 declaration under penalty of perjury that "he (Recinos) had not done any work since the last  
25 WDO filing in April 2012" when in fact he had engaged in the practice of structural pest control  
26 in and between October 8, 2012 and December 5, 2012. Paragraphs 22-26 are hereby  
27 incorporated by reference as though alleged herein.

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Submit to County Monthly Use Report of All Pesticides Used)**

3 31. Respondent's company registration and operator license are subject to disciplinary  
4 action pursuant to Code sections 8641 and 8505.17 subdivision (c) in that despite engaging in  
5 structural pest control during 2012, Respondent submitted false reports to the Los Angeles  
6 County Agricultural Commissioner indicating that no pesticides were used by Respondent during  
7 the 2012 calendar year. Paragraphs 22-26 are hereby incorporated by reference as though alleged  
8 herein.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Engaging in the Business of Structural Pest Control While Uninsured)**

11 32. Respondent's company registration and operator license are subject to disciplinary  
12 action pursuant to Code sections 8620, 8691 and 8695 in that on or about October 8, 2012,  
13 Respondent engaged in the business of structural pest control while his liability insurance policy  
14 had lapsed. Paragraphs 22-26 are hereby incorporated by reference as though alleged herein.

15 **OTHER MATTERS**

16 33. Code section 8620 provides, in pertinent part, that a respondent may request that a  
17 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days,  
18 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made  
19 at the time of the hearing and must be noted in the proposed decision. The proposed decision  
20 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

21 34. Pursuant to Code section 8654, if discipline is imposed on Operator License Number  
22 OPR 10926, issued to David Recinos, David Recinos shall be prohibited from serving as an  
23 officer, director, associate, partner, qualifying manager, or responsible managing employee for  
24 any registered company during the time the discipline is imposed, and any registered company  
25 which employs, elects, or associates David Recinos shall be subject to disciplinary action.

26 **PRAYER**

27 WHEREFORE, Complainant requests that a hearing be held on the matters  
28 herein alleged, and that following the hearing, the Structural Pest Control Board issue a decision:

